SUBJECT INDEX

Page

Opinion below 1

Jurisdiction 2

Question presented 2

Summary of argument 3

Argument 6

Preliminary statement 6

I.

The Submerged Lands Act confirms, but neither enlarges nor diminishes, the title of the states and their grantees in offshore lands in accordance with state law, and cannot be construed so as to convert a trust title to a beneficial title 9

II.

The State of California is not precluded by law from changing or altering the statutory trusts which exist with respect to the subject lands 15

III.

The question as to the sufficiency of the title of the 1911 grant is improperly raised for the first time at this stage of these proceedings, and, in any event, said title is sufficient 17

A. An issue not raised in the proceedings below and involving a state constitional question not passed upon by the state courts will not be considered by this court on a petition for certiorari 17

B. The trust provisions of the 1911 statutory grant were embraced by the statute's title 18

Conclusion 19

TABLE OF AUTHORITIES CITED

Cases	Page
Adler v. Board of Education, 342 U. S. 485	17
City of Long Beach v. Lisenby, 175 Cal. 575, 166 Pac. 333	7
City of Long Beach v. Marshall, 11 Cal. 2d 609, 82 P. 2d 362	7, 8
City of Long Beach v. Morse, 31 Cal. 2d 254, 188 P. 2d 17	7, 8
City of Long Beach v. Vickers, 55 Cal. 2d 153, 358 P. 2d 687	7
Helvering v. Minnesota Tea Co., 296 U. S. 378	17
Hunter v. Pittsburgh, 207 U. S. 161	16
International Shoe Co. v. Shartel, 279 U. S. 429	19
Justheim v. McKay, 123 F. Supp. 560, aff. 229 F. 2d 29, cert. den. 351 U. S. 933	14
Mallon v. City of Long Beach, 44 Cal. 2d 199, 282 P. 2d 481	7, 8, 16
Metropolitan Water District v. Marquardt, 59 Cal. 2d 159, 379 P. 2d 28	19
Pawhuska v. Pawhuska Oil and Gas Co., 250 U. S. 394	16
People v. City of Iong Beach, 51 Cal. 2d 875, 338 P. 2d 177	7
People v. City of Long Beach, 200 Cal. App. 2d 609, 19 Cal. Rptr. 585	7
People v. Hecker, 179 Cal. App. 2d 823, 4 Cal. Rptr. 334	14
People v. Sterling Refining Co., 86 Cal. App. 558, 261 Pac. 1080	19
Railroad Com. v. Los Angeles R. Corp., 280 U. S. 145	16

Page

Superior Oil Co. v. Fontenot, 213 F. 2d 565, cert. den. 348 U. S. 837 ..... 13, 14

Trenton v. New Jersey, 262 U. S. 182 16

Trickey v. City of Long Beach, 101 Cal. App. 2d 871, 226 P. 2d 694 7

Twombley v. City of Long Beach 333 F. 2d 685 2

United States v. California, 332 U. S. 19 14

United States v. California, 332 U. S. 804 ..... 3, 14

United States v. Louisiana, 363 U. S. 1 ..... 3, 10, 14

Utah Power and Light Co. v. Pfost, 286 U. S. 165 19

Miscellaneous

99 Congressional Record, p. 2697 11

99 Congressional Record, p. 4361 10

Rules

Rules of the Supreme Court, Rule 19 19

Statutes

California Constitution, Art. IV, Sec. 24 18

California Statutes of 1911, Chap. 676, p. 1304 6

California Statutes of 1911, Chap. 676, pp. 1304-1305 7

California Statutes of 1925, Chap. 102, p. 235 6

California Statutes of 1935, Chap. 158, p. 793 6

California Statutes of 1951, 3d Ex. Sess., Chap. 915, p. 2443 ..... 6, 8

California Statutes of 1964, 1st Ex. Sess., Chap. 138 9

67 Statutes at Large, p. 29 (1953) 2, 3, 11, 12, 13

Page

67 Statutes at Large, p. 30 12

67 Statutes at Large, Sec. 2(d), p. 29 .....3, 10, 12, 13

67 Statutes at Large, Secs. 3-4, pp. 30-31 3

United States Code, Title 28, Sec. 1254(1) 2

United States Code, Title 28, Sec. 1331 2

United States Code, Title 43, Sec. 1301 .....3, 11

United States Code, Title 43, Sec. 1301(d) .....
.....3, 10, 13

United States Code, Title 43, Secs. 1301-1315 2

United States Code, Title 43, Sec. 1311 12

United States Code, Title 43, Secs. 1311-1312 3

IN THE

Supreme Court of the United States

October Term, 1964
No. 517

LEWIS W. TWOMBLEY,

Petitioner,

vs.

CITY OF LONG BEACH, a California municipal corporation; MURRAY T. COURSON, City Auditor of the City of Long Beach, California; STATE OF CALIFORNIA; and THE STATE LANDS COMMISSION OF THE STATE OF CALIFORNIA,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

Brief for Respondents State of California and the State Lands Commission of the State of California in Opposition

Opinion Below

The opinion of the United States Court of Appeals for the Ninth Circuit is reported in 333 F.2d 685 [Advance Sheet No. 3 dated August 31, 1964], and said opinion is set forth in Appendix "A" of Petitioner's Brief.

Jurisdiction

Petitioner seeks to invoke the jurisdiction of this Court by writ of certiorari under the powers of review conferred by 28 U.S.C. 1254(1) (1958).

The basis for federal jurisdiction urged by petitioner in the United States District Court for the Southern District of California was the interpretation of the Submerged Lands Act, 67 Stat. 29 (1953), 43 U.S.C. §§ 1301-15 (1958), a federal question. 28 U.S.C. 1331 (1958).

Question Presented

As stated in the opinion of the United States Court of Appeals for the Ninth Circuit:

> "The question presented by this appeal [currently by the Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit] is whether the City of Long Beach, California, holds fee title to the submerged lands (lands covered by navigable non-tidal waters) within its boundaries, free from any right in the State of California."*

Two. ibley v. City of Long Beach, 333 F.2d 685, 686 (1964).

---

*Petitioner's statement (Petition, page 2) that "The question presented is a controversy between the State of California and the City of Long Beach . . ." is incorrect. The City of Long Beach has joined the State of California in opposing Petitioner's position at every stage of these proceedings, and has authorized the State to represent to this Court that the City concurs in the State's opposition to the present Petition for Writ of Certiorari.

Summary of Argument

By a series of statutory grants commencing in 1911, the State of California granted to the City of Long Beach all of the tidelands and submerged lands within the boundries of that municipality. Each of those legislative grants to the City was made *in trust* for specified uses and purposes and upon certain conditions.

To the extent it is arguable that such lands are outside the State's inland waters, title to the submerged lands so granted to the City of Long Beach, along with that of all submerged lands within the State, was affected by the federal-state conflict over ownership and control of such lands. *United States v. California,* 332 U.S. 804, 805 (1947); *United States v. Louisiana,* 363 U.S. 1, 6 n. 4 (1950).

The conflict was resolved, in 1953, by Congressional enactment of the Submerged Lands Act which recognized, confirmed, established, vested and assigned to the States and their grantees title to the submerged lands within the States' boundaries, according to State law. 67 Stat. 29, 30-31, §§ 3-4 (1953), 43 U.S.C. §§ 1301, 1311-12 (1958). Said Act specifically refers to municipal grantees (among others) and immediately thereafter provides:

> ". . . That nothing herein shall be construed as conferring upon said grantees or lessees any greater rights or interests other than are described herein and in their respective grants from the State, or its predecessor sovereign. . . ." 67 Stat. 29, § 2(d), 43 U.S.C. § 1301(d) (1958).

California decisions construing California statutes establish beyond question that the City of Long Beach holds title to its submerged lands in trust for the people of the State subject to certain terms, restrictions and conditions. *Infra,* pp. 6-9. Consequently, petitioner, contrary to the express provisions of the Submerged Lands Act, is seeking to establish that said act conferred upon the City greater rights and interests than those set forth in the City's grants from the State. Furthermore, petitioner, while admitting that the City's claim is entirely dependent upon the State grants, nevertheless insists that the conditions of trust contained in these conveyances be deleted.

Petitioner's contention that Legislative modifications of the original State grants are invalid cannot be sustained. The State may lawfully change or amend rights of a municipality where such rights were given by the State to the municipality for governmental purposes. Therefore, changes of the trust relationship between the City of Long Beach and the State were lawful. *Infra,* pp. 15-16.

Finally, petitioner's suggestion, for the first time in these proceedings, that the restrictions and conditions in the original grant of the State to the City of Long Beach are void because not specifically referred to in the statutory title is unavailing. This contention involves purely a question of State law not raised in the proceedings below. Even if this Court were to con-

sider the question so raised by petitioner, it can be shown beyond question that the State constitutional provision relied upon by petitioner with regard to the title of the State Legislative grant of 1911 has been fully complied with.

Petitioner has not presented an important question of federal law which requires settlement by this Court. Further, petitioner has not shown any conflict between the opinion of the Court of Appeals and decisions of this Court. Consequently, it is respectfully submitted that this is an inappropriate case for the granting of certiorari.

ARGUMENT

Preliminary Statement

This taxpayer's suit by petitioner has as its purpose the alteration of the presently existing relationship between the State of California and the City of Long Beach as to the tide and submerged lands now held by the City. The precise nature of this relationship requires some explanation.

By successive statutory conveyances in 1911, 1925 and 1935, the State of California granted to the City of Long Beach all the tidelands and submerged lands within the limits of the City, "in trust" for the promotion of commerce and navigation. Cal.Stat. 1911, ch. 676, p. 1304, amended by Cal.Stat. 1925, ch. 102, p. 235, Cal.Stat. 1935, ch. 158, p. 793, and Cal.Stat. 1951, 3d Ex. Sess., ch. 915, p. 2443. Copies of the 1911, 1925 and 1935 statutes appear as Appendices "D," "E," and "F," respectively, to the Petition herein.

Section 1 of the 1911 grant, in part, provides:

> ". . . There is hereby granted to the city of Long Beach, a municipal corporation of the State of California, and to its successors, all the right, title and interest of the State of California, held by said state by virtue of its sovereignty, in and to all the tide lands and submerged lands, whether filled or unfilled, within the present boundaries of said city, and situated below the line of mean high tide of the Pacific ocean, or of any harbor, estuary, bay or inlet within said boundaries, to be forever held by said city, and by its successors, *in trust for the uses and pur-*

poses, and upon the express conditions following, to wit:

"(a) That said lands shall be used by said city and by its successors, solely for the establishment, improvement and conduct of a harbor. . . ." Cal. Stat. 1911, ch. 676, pp. 1304-05 (Emphasis added.)

Although the specific trust purposes were somewhat modified, similar terminology is found in section 1 of the 1925 and 1935 Legislative grants. In each instance the unequivocal language of the grant conveys only a trust title to the City for designated purposes.

In a long and consistent line of cases, the California courts have repeatedly adjudicated that the effect of these statutory conveyances was to vest the municipal grantee with a mere legal title as trustee for the people of the State for governmental purposes. *City of Long Beach v. Lisenby,* 175 Cal. 575, 579, 166 Pac. 333, 336 (1917); *City of Long Beach v. Marshall,* 11 Cal. 2d 609, 614, 82 P.2d 362, 364 (1938); *City of Long Beach v. Morse,* 31 Cal. 2d 254, 262, 188 P.2d 17, 19-20 (1947); *Trickey v. City of Long Beach,* 101 Cal. App.2d 871, 878-879, 226 P.2d 694, 699 (1951); *Mallon v. City of Long Beach,* 44 Cal.2d 199, 205, 282 P.2d 481, 484-485 (1955); *People v. City of Long Beach,* 51 Cal.2d 875, 877-878, 338 P.2d 177, 178 (1959); *City of Long Beach v. Vickers,* 55 Cal.2d 153, 157-158, 358 P.2d 687, 690 (1961); *People v. City of Long Beach,* 200 Cal.App.2d 609, 611, 614-615, 19 Cal.Rptr. 585, 588 (1962).

By virtue of the aforementioned statutory grants, it was held that the City was empowered to drill for, extract, and dispose of any oil, gas, and other hydro-

carbon substances discovered on these tidelands and submerged lands owned by it. *City of Long Beach v. Marshall,* 11 Cal.2d 609, 620, 82 P.2d 362, 367 (1938). Subsequently, the case of *City of Long Beach v. Morse,* 31 Cal.2d 254, 261-262, 188 P.2d 17, 22 (1947) established that because the City's ownership of tide and submerged lands was that of a trustee, all income or moneys derived by the City from the sale of oil, gas and other hydrocarbon substances produced from these lands were trust funds and could be used only in furtherance of trust purposes and not for general municipal purposes unconnected with the trust purposes.

In 1951 the California Legislature adopted a statute (Cal.Stat. 1951, ch. 915, p. 2443) declaring that half of the Long Beach oil revenue and all the dry gas revenue derived from these tide and submerged lands were no longer required for the public trusts specified in the granting statutes, and freeing these revenues from trust. In *Mallon v. City of Long Beach,* 44 Cal.2d 199, 212-213, 282 P.2d 481, 489 (1955), the California Supreme Court held that the 1951 statute operated as a revocation of the trust as to these surplus revenues and that the City of Long Beach held, and would in the future receive, half the oil revenue and all the dry gas revenue as "resulting trustee" for the State of California.

The State of California then brought suit for an accounting and payment to it of the oil and gas revenues freed from trust by the 1951 statute. *People v. City of Long Beach,* Los Angeles Superior Court No. 649466 (Sept. 1955). Following an authorization by the California Legislature in chapter 29, California

Statutes of 1956, First Extraordinary Session (Appendix "G" of the Petition herein), a compromise and settlement was negotiated between the City and the State, and implemented by a stipulated Decree and Judgment in the aforesaid case of *People v. City of Long Beach, supra.* The trust relationship between the City and the State, and the division of trust revenues were further modified by chapter 138, Cal.Stat. 1964, 1st Ex.Sess., portions of which are set forth in Appendix "H" of the Petition herein, where it is referred to as "Senate Bill No. 60."

It is the aforedescribed trust relationship between the State of California and the City of Long Beach, carefully created by the California Legislature and judicially defined by California courts, which petitioner seeks to overthrow.

I

The Submerged Lands Act Confirms, but Neither Enlarges nor Diminishes, the Title of the States and Their Grantees in Offshore Lands in Accordance With State Law, and Cannot Be Construed so as to Convert a Trust Title to a Beneficial Title

The basic premise of petitioner's argument herein is that the Submerged Lands Act transformed grants made by the State of California to the City of Long Beach of the submerged lands within the boundaries of that city from conveyances in trust to conveyances in fee simple absolute, free of any trust restrictions imposed by the grants of those lands. It is petitioner's position that prior to the enactment of the Submerged Lands Act, California had no title to the submerged lands so conveyed. With the passage of that act, peti-

tioner contends that a fee simple absolute title was created in the City of Long Beach and that all terms, conditions and restrictions in the grants to the State's grantees were removed. Petition pp. 8-10. This contention is made despite the specific language of the Act:

> ". . . That nothing herein shall be construed as conferring upon said grantees or lessees any greater rights or interests other than are described herein and in their respective grants from the State, or its predecessor sovereign. . . ." 67 Stat. 29 § 2(d) (1953), 43 U.S.C. § 1301(d) (1958)

Numerous attempts of Congress to resolve the conflicts between the federal and state governments over their respective rights in tide and submerged lands culminated in the passage of the Submerged Lands Act of 1953. *United States v. Louisiana,* 363 U.S. 1, 6 n. 4 (1950). Petitioner's argument that the State of California had no title to the submerged lands granted to Long Beach in 1911, and that this affects the present title of the City (Petition p. 8), completely ignores the historic background and purpose of the Submerged Lands Act. This basic purpose was pointed out to the Senate by the Act's author, Senator Holland, who stated:

> "The truth is that Senate Joint Resolution 13 [which became the Submerged Lands Act] simply restores or gives back to the States the submerged lands within their historic boundaries which they have possessed, used and developed in good faith for over 100 years. *It confirms the property to the same people who have always owned and used it.*" 99 Cong. Rec. 4361. (Emphasis added.)

The effect of the statute had been previously emphasized by the floor manager of the Act, Senator Cordon, who stated:

> ". . . The language [of Section 4] thereby validates all the States have done in transferring to their citizens portions of land in this area." 99 Cong. Rec. 2697.

The Submerged Lands Act clearly and unmistakably implements the Congressional intent to validate all grants of submerged lands made by the States prior to 1953, but to create no greater rights or interests than those created by the grants themselves. The purpose of the Act is set forth in its preamble:

> "To confirm and establish the titles of the States to lands beneath navigable waters within State boundaries and to the natural resources within such lands and waters. . . ." 67 Stat. 29 (1953).

"[L]ands beneath navigable waters" in section 2 of the Act are so defined as to include all possible categories of submerged lands, including lands beneath the inland waters and lands beneath the marginal sea. 67 Stat. 29 (1953), 43 U.S.C. § 1301 (1958).

Section 3 of the Act reads in part as follows:

> "Sec. 3. Rights of the States.—
>
> "(a) It is hereby determined and declared to be in the public interest that (1) title to and ownership of the lands beneath navigable waters within the boundaries of the respective States, and the natural resources within such lands and waters, and (2) the right and power to manage, administer, lease, develop, and use the said lands and natural resources *all in accordance with applicable State*

law be, and they are hereby, subject to the provisions hereof, recognized, confirmed, established, and vested in and assigned to the respective States or the persons who were on June 5, 1950, entitled thereto *under the law of the respective States in which the land is located,* and the respective grantees, lessees, or successors in interest thereof;

"(b)(1) The United States hereby releases and relinquishes unto said States and persons aforesaid, except as otherwise reserved herein, all right, title, and interest of the United States, if any it has, in and to all said lands, improvements, and natural resources. . . ." 67 Stat. 29, 30 (1953), 43 U.S.C. § 1311 (1958). (Emphasis added.)

This section establishes beyond question that the titles confirmed by the Act are in accordance with state law.

Section 2(d) of the Act recites:

"(d) The terms 'grantees' and 'lessees' include (without limiting the generality thereof) all political subdivisions, municipalities, public and private corporations and other persons holding grants or leases from a State, or from its predecessor sovereign if legally validated, to lands beneath navigable waters if such grants or leases were issued in accordance with the constitution, statutes, and decisions of the courts of the State in which such lands are situated, or of its predecessor sovereign: *Provided, however, That nothing herein shall be construed as conferring upon said grantees or lessees any greater rights or interests other than are described herein and in their respective grants*

from the State, or its predecessor sovereign. . . ." 67 Stat. 29 (1953), 43 U.S.C. § 1301(d) (1958). (Emphasis added after "*Provided, however,*".)

Section 2(d) clearly discloses congressional concern with the effect of the Submerged Lands Act upon the rights and interests of the State's municipal grantees, and specifies that these cannot be "greater" than as described in the State legislative grants.

The meaning of the statute is clear: Long Beach can only hold whatever lands are claimed under the Act by virtue of the City's status under State law. The quitclaim or relinquishment by the United States is to the State or to the persons who on June 5, 1950, were entitled to lands under the law of the respective states in which the lands were located. The statutes and case law of California, already cited (*supra*, pp. 6-9), establish without doubt that on June 5, 1950, and at all times prior thereto, the relevant State law was that Long Beach held the lands described as a trustee for the State of California. The only grants the City received from the State were in trust and the State retained its rights as settlor-beneficiary of the granted lands. At no time did the State ever part with any right to modify or revoke the trust.

The proposition that the Submerged Lands Act specifically incorporates State law, and that its effect is to recognize and reinforce that law, not to displace it, is fully supported by judicial decisions. In *Superior Oil Co. v. Fontenot*, 213 F.2d 565 (5th Cir. 1954), *cert. denied* 348 U.S. 837, a plaintiff oil company challenged the right of the State of Louisiana to impose a mineral severance tax on certain oil produc-

tion which occurred on tide or submerged lands between the time of the decision of the United States Supreme Court in *United States v. California*, 332 U.S. 19 (1947), and the passage of the Submerged Lands Act of 1953. The oil company contended that until the Submerged Lands Act was passed, the State had no title to the lands in question and thus had no right to tax production from such lands. In essence this is the basic legal argument of plaintiff here. Rejecting this contention and construing the meaning of the Submerged Lands Act, the court stated:

> ". . . they [the State and its lessees] must be held, notwithstanding the opinion of the Supreme Court [referring to *U.S. v. California supra*], to have always and at all times had the title and right of possession, or, if the passage of Public Law 31 . . . is to be regarded as then conferring title on them, this title, by the very terms of the Act declaring and establishing it, related back so as to confirm and maintain the possession and title of State and lessee as good from the beginning." *Superior Oil Co. v. Fontenot, supra*, 213 F.2d at p. 569.

See also: *United States v. State of Louisiana, et al.*, 363 U.S. 1, 16-25 (1950); *Justheim v. McKay*, 123 F. Supp. 560, 566-567 (D.C.C. 1954), *affirmed* 229 F.2d 29, *cert. denied*, 351 U.S. 933; *People v. Hecker*, 179 Cal.App.2d 823, 836-837, 4 Cal.Rptr. 334, 342-343 (1960).

Clearly, then, the City of Long Beach has only such title under the Submerged Lands Act as it can claim under State law. As succinctly put by the trial judge

below in his order granting respondent's motion to dismiss:

> "3) The motion to dismiss on the ground that plaintiff fails to state a cause of action is well taken. Plaintiff's technical arguments fails to answer the point repeatedly made by defendants that Congress intended by the Submerged Lands Act to 'confirm' whatever conveyances of title which the States had already made; Plaintiff cannot rely on the statutory conveyances made to Long Beach while, at the same time, insisting that the conditions of trust contained in the conveyances be deleted." Tr. of Record, p. 113.

II

The State of California Is Not Precluded by Law From Changing or Altering the Statutory Trusts Which Exist With Respect to the Subject Lands

Petitioner additionally contends that the State cannot vary the terms and conditions of the State grants. He bases this contention on the grounds that such changes are ". . . a violation of the Constitution of the United States, the Constitution of the State of California, the laws of the United States and the laws of the State of California to attempt to take from a city its property without any compensation whatsoever therefor. . . ." Petition, p. 10.

The law of California and the decisions of this Court clearly refute any suggestion that the rights of the City of Long Beach have been impaired. As was

previously noted, repeated California decisions have held that the City of Long Beach holds these lands in trust for the governmental purposes set forth in the state grants. *Supra*, pp. 6-9. As pointed out in *Mallon v. City of Long Beach, supra*, 44 Cal.2d 199, 209, 282 P.2d 481 (1955), it is settled that the State, acting in its governmental capacity, has the power to alter the contractual or property rights of a municipality where those rights were given by the State to the municipal corporation for a governmental purpose. This proposition is amply sustained by decisions of this Court.

Railroad Com. v. Los Angeles R. Corp., 280 U.S. 145, 156 (1929);

Trenton v. New Jersey, 262 U.S. 182, 188, 191-192 (1922);

Pawhuska v. Pawhuska Oil and Gas Co., 250 U.S. 394, 398-399 (1918);

Hunter v. Pittsburgh, 207 U.S. 161, 178-179 (1907).

Thus, whatever rights the City of Long Beach has are subject to the exercise of the reserved powers of the State. Petitioner has no valid complaint because the State thereafter exercised the powers reposed in it by law.

III

The Question as to the Sufficiency of the Title of the 1911 Grant Is Improperly Raised for the First Time at This Stage of These Proceedings, and, in Any Event, Said Title Is Sufficient

Petitioner, for the first time in this case, contends that the terms and conditions set forth in the 1911 statutory grant by the California Legislature are void under the State's Constitution because they were not enumerated in the title of the statute. Petition, pp. 12-16.

A. An Issue Not Raised in the Proceedings Below and Involving a State Constitutional Question Not Passed Upon by the State Courts Will Not Be Considered by This Court on a Petition for Certiorari

Before disposing of the merits of this contention, two rules of this Court should be noted. The first rule is that a point raised for the first time in the petition for certiorari will not be considered. *Hekering v. Minnesota Tea Co.*, 296 U.S. 378, 380 (1935). The second is that this Court ". . . will not pass upon the constitutionality of a state statute before the state courts have had an opportunity to do so. . . ." *Adler v. Board of Education*, 342 U.S. 485, 496 (1952). Neither the courts below nor the State courts have had an opportunity to pass upon this contention. Therefore, it is respectfully submitted that under the Court's rules it would be inappropriate to consider the point at this time.

B. The Trust Provisions of the 1911 Statutory Grant Were Embraced by the Statute's Title

Even if considered by the Court, petitioner's contention is without merit.

Article IV, section 24 of the California Constitution provides:

> ". . . Every act shall embrace but one subject, which subject shall be expressed in its title. But if any subject shall be embraced in an act which shall not be expressed in its title, such act shall be void only as to so much thereof as shall not be expressed in its title."

The California Supreme Court has recently stated:

> "Section 24 of article IV must be construed liberally so as to uphold legislation all parts of which are reasonably germane, and a provision which is auxiliary to and promotive of the main purpose of the act or has a necessary and natural connection with that purpose is germane within this rule. Provisions governing projects so related and interdependent as to constitute a single scheme may be properly included within a single act, and the general purpose of a statute being declared, the details provided for its accomplishment will be regarded as necessary incidents. (Perry v. Jordan, 34 Cal.2d 87, 92-93 [207 P.2d 47].)
>
> ". . .
>
> ". . . Under Section 24 of article IV 'the title of an act need not embrace an abstract or catalog of its contents, but need only contain a reasonable intimation of the matters under legislative consideration.' (Harris v. Fitting, 9 Cal.2d 117,

120 [69 P.2d 833]; Heron v. Riley, 209 Cal. 507, 510 [289 P. 160].). . . ."

Metropolitan Water District v. Marquardt, 59 Cal.2d 159, 172-174, 379 P.2d 28, 34-35 (1963).

To similar effect is *People v. Sterling Refining Co.*, 86 Cal.App. 558, 566-67, 261 Pac. 1080, 1084 (1927), cited by petitioner. Petition p. 14. These California decisions are entirely consistent with this Court's construction of similar constitutional provisions from other States. *Utah Power and Light Co., v. Pfost*, 286 U.S. 165, 186-188 (1932); *International Shoe Co. v. Shartel*, 279 U.S. 429, 434 (1929).

The 1911 statutory grant to the City of Long Beach relates to one subject only, the granting of certain lands to the City. As demonstrated by the foregoing decisions, it was unnecessary for the State legislature to list each term and condition of the grant. There can be no question but that the terms upon which a Legislative grant is made are "reasonably germane" to such grant and have "a necessary and natural connection" with the purpose thereof. Thus, petitioner's contention that the act is void as to the conditions and terms of the grant because not referred to in the title thereof is unavailing.

Conclusion

As stated by this Court's rules,

"A review on writ of certiorari is not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons therefor. . . ." Supreme Court Rule 19.

Respondents submit that no "special and important" reason has been presented to this Court for its review of the District Court of Appeal's decision in this case. No ambiguity exists concerning the extent of title confirmed and recognized in State grantees by the Submerged Lands Act. The Act has been applied by the court below literally and in accord with Congressional intent. There is no contrary interpretation of the Act by another court.

It is therefore respectfully requested that this court deny the petition for certiorari.

Respectfully submitted,

THOMAS C. LYNCH,
Attorney General,

JAY L. SHAVELSON,
Assistant Attorney General,

N. GREGORY TAYLOR,
Deputy Attorney General,

Attorneys for Respondents State of California and State Lands Commission of the State of California.